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SUBJECT: DROP-DEAD DATE FOR IRAQ ELECTION LAW IMMINENT;
TIMELINE AND POSTPONEMENT SCENARIOS

Classified By: Political Counselor Yuri Kim, for reasons 1.4 b and d.

11. (C) SUMMARY: November 5 is the drop-dead date for legislative action to hold legitimate, credible elections in Iraq on January 16, according to Iraq's election authorities and UNAMI experts. This drop-dead date is pegged to December 5, the date by which the ballots must go to the printer, and the logistically challenging task of distributing those ballots in early January to 6,000 polling stations for 18 million Iraq voters. Every day that passes without an election law eats into the critical events that must take place beforehand, including candidate registration, coalition certification, and beginning the hiring and training of some 300,000 temporary poll workers for election day. Postponing the elections would remove the intense pressure on IHEC and diminish the importance of this daunting timeline elaborated above, but it would create political and scheduling complications, including popular protests against what might be seen as an effort by unpopular incumbents to avoid accountability. An extended delay lasting months would erode respect for the constitution and give rise to questions about the legitimacy of the government. The Council of Representatives (COR) probably would justify any election delay that stretched until early March by reinterpreting when the COR's electoral term ends. It is possible, although unlikely, that the COR might attempt to replace the Maliki government before the COR's constitutional authority ends with the conclusion of its electoral term in April. Postponing the national election in Kirkuk province alone -- as Iraqis did for the provincial elections in January 2009 -- probably would not solve the current stalemate because it almost certainly is unconstitutional, many, especially the Kurds, probably would declare such an election to be illegitimate. END SUMMARY.

12. (C) According to IHEC, November 5 is the drop-dead date for legislative action to hold elections in Iraq on January 16 that are legitimate and credible. This assessment is heavily influenced by UNAMI, whose elections assistance experts are embedded with IHEC and know that institution's capabilities intimately. This drop-dead date is based on a timeline that UNAMI and IHEC have developed. The key date on that timeline is December 5, the date the ballots must go to the printer overseas (to maintain control over sensitive materials). According to IHEC, the printing process takes several weeks because of transport exigencies, the need for complex security features in the printing (to avoid forgeries), and the need to print 19 separate ballots (18 for each of the governorates and one for out-of-country voting).

13. (C) Once the ballots arrive back in country in early January, they must be trucked to the correct IHEC governorate electoral offices (GEOs), assembled in thousands of electoral kits with official campaign posters that will help identify candidates for open list voting, and further distributed to 6,000 polling stations. All these materials need to be in place at polling stations a few days before special needs voting (for 600,000 in the security forces, among others) on January 13. According to International Foundation for Electoral Systems (IFES) experts in country, IHEC has no room

for maneuver on this December 5 ballot print date.

¶4. (C) Because December 5 date is a hard-line, every day that passes without an election law eats into the critical events that must take place beforehand. Coalition certification was supposed to end on October 31, but has been extended several times to allow political parties and coalitions at least a few days to react to the political realities (and details) that passage of an election law will create. For example, parties may run a party list of candidates in some governorates and as part of a broader coalition in others. The election law should provide (usually in an annex) critical information about the number of seats allocated to each governorate, the number of minority seats, and the total number of national compensatory seats. The information about the allocation of seats in each governorate also helps shape the design of the 19 ballot models.

¶5. (C) In addition to coalition certification, IHEC must launch candidate registration. Normally, this takes several weeks to allow for vetting of ten to fifteen thousand candidates (especially de-Baathification scrutiny as well as monitoring of age and educational requirements; IHEC is jettisoning most of this vetting and will do it, with relevant GOI bodies, only for winners, post-election.) IHEC also needs to conduct a ballot lottery (to establish the order of parties on the ballots) and design the 19 separate ballots. In mid-November, it must begin the arduous process of hiring and training some 300,000 poll watchers who will man 52,000 polling centers (clustered in the 6,000 polling stations). These temporary staff will be the public face of

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IHEC at all of these polling stations, so training is critical. The training procedures (including the all-important vote-counting procedures) cannot be finalized until the election law is passed. While a cascade system will be used to disseminate this training as quickly as possible, the huge numbers restrict how fast this can be done.

¶6. (C) IFES head Sean Dunne told Pol/C November 4 that IHEC has already entered the critical zone where every day lost is beginning to erode the prospects for credible elections. They are still possible, he noted, but odds are diminishing by the day. While IHEC and UNAMI may be able to sit down and "re-engineer the process" to buy a few days, the time factor has become so critical that there is no guarantee that changing the processes will buy any additional time, he added.

ELECTION POSTPONEMENT SCENARIOS

¶7. (C) Postponing the elections would remove the intense pressure on IHEC and diminish the importance of the crushing timeline elaborated above, but it would create other political and scheduling complications. Iraqi politicians and the public probably would accept a delay of several weeks in the election beyond the planned January 16 date, but this risks running up against the "Arbaeen" of Imam Hussein, a commemoration of Hussein's martyrdom during which Shia conduct a pilgrimage to Karbala. Arbaeen is scheduled to take place around February 5, 2010, but the pilgrimages and preparations begin several days prior. Shia politicians might resist an election during this timeframe, including the end of January, for fear of reduced voter turnout.

¶8. (C) Any election delay past March would probably undermine the Iraqi public's acceptance of the central government and could spark protests against what might be seen as an effort by unpopular incumbents to avoid accountability and extend their inflated salaries. A delay of six months or more would likely erode the rule of law,

respect for the constitution, and the legitimacy of the government.

¶9. (c) The Council of Representatives (COR) probably would justify any election delay that stretched until early March by reinterpreting when the COR's electoral term ends. The Iraqi Constitution mandates the election must be held 45 days prior to the end of the COR's electoral term. The COR was sworn in on March 16, 2006 but did not close the first session until April 23, 2006. The COR may accordingly argue that April 23 marks the end of its electoral term, although this would cut against a Federal Supreme Court (FSC) advisory opinion that March 16 is the applicable date and that elections therefore must be held by January 30. Moving beyond the January 30 date without an accepted justification and an agreement on a new election date also opens the possibility of an indefinite delay in the election.

¶10. (C) While the Constitution defines the COR's term, it does not address whether the terms of the Prime Minister or Council of Ministers (COM) continue if there is no election. The Constitution states that the President's term ends at the same time as the COR's, but also provides that the President shall continue to exercise his duties until after the end of the election and the meeting of the new COR. This ambiguity might convince some Iraqis that after March 16, the Executive branch remains while the COR dissolves.

¶11. (C) If March 16 approaches without an election scheduled, COR members might seek to replace the Maliki Government before the COR's constitutional authority ends, or QGovernment before the COR's constitutional authority ends, or attempt to limit Maliki's power by stripping his access to government funds and security authorities. The current COR -- especially MPs from the Iraqi National Alliance (INA), Iraqi Islamic Party (IIP), and Kurdish parties -- could in theory muster the needed votes to replace the Maliki government should an election date remain out of reach. A withdrawal of confidence in the Maliki government and installation of a new Prime Minister and COM, however, would not obviate the constitutional requirement for an election.

¶12. (C) Many Arabs and Turkomen from Kirkuk might welcome an election delay because it would temporarily prevent the Kurds from showing their demographic dominance in Kirkuk. The Kurds and Shia, however, would worry that too long a delay could undermine the new Iraqi political order they largely control.

Exclusion of Kirkuk from the Election

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¶13. (C) Postponing the national election in Kirkuk province alone -- as Iraqis did for the provincial elections in January 2009 -- probably would not solve the current stalemate because it almost certainly is unconstitutional, many Iraqis probably would declare such an election to be illegitimate. The Constitution stipulates that the results of the national election, as represented by allocation of seats in the COR, must represent the entire country, even though the 2005 national election law allowed for postponing voting in a province if required by the security situation. All that aside, the Kurds have vowed to block or veto any measure to exclude Kirkuk.

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